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EXAMINER

KING, BRIAN M

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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte THOMAS GRAHAM

Appeal 2015-005084
Application 12/806,571¹
Technology Center 3700

Before BIBHU R. MOHANTY, BRUCE T. WIEDER, and
KENNETH G. SCHOPFER, *Administrative Patent Judges*.

SCHOPFER, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellant requests rehearing of the decision entered February 14, 2017 (“Decision”), which affirmed the Examiner’s rejections of claims 1–4 and 8–11 as obvious over Canter² in view of Hoffmann³; claims 5 and 6 as obvious over Canter in view of Hoffmann and Khan⁴; and claim 7 as obvious over Canter in view of Hoffmann, Khan, and Mehlan⁵. Appellant

¹ According to Appellant, the real party in interest is Component Hardware Group, Inc. Appeal Br. 1.

² Canter, US 3,679,867, iss. July 25, 1972.

³ Hoffmann, US 5,072,095, iss. Dec. 10, 1991.

⁴ Khan, US 4,554,794, iss. Nov. 26, 1985.

⁵ Mehlan et al., US 4,509,339, iss. Apr. 9, 1985.

contends that we misapprehended or overlooked certain points of fact and law in rendering our opinion. Req. Reh'g. 1–2. However, we find no point of law or fact that we overlooked or misapprehended in arriving at our Decision.

DISCUSSION

Appellant raise four issues in the request for rehearing. We address each in turn below.

Appellant first argues that Hoffmann does not disclose that housing 3 pivots under the weight of an object placed thereon and that we overlooked this fact in finding that Hoffmann at least suggests that the device would pivot on an axis as claimed. Req. Reh'g 2. Although we agree that Hoffmann does not explicitly disclose that the housing pivots about an axis between the posts on the far left and far right of Figure 1, we disagree that we overlooked or misapprehended this fact in arriving at our Decision. Further, we did not find in our Decision that Hoffmann inherently discloses that the housing pivots as claimed. Rather, we found that the structure depicted by Hoffmann at least suggests such pivoting because Hoffmann indicates only that the actuator foot 7 is depressed when weight is applied to the housing. In particular, if the feet 15 are stationary and the actuator foot 7 depresses, the housing would pivot about an axis between the feet on the far right and far left of Figure 1 when weight is applied. However, we do not find that this is inherently the case, because it may be that the feet 15 are also depressed when weight is applied to the house, though Hoffmann does not explicitly disclose or otherwise indicate any movement of feet 15.

Second, Appellant argues that we overlooked the fact that the Examiner's "proposed substitution would require elimination of the heater

assembly 20 of **Canter** and destroy the teachings of **Canter**.” Req. Reh’g. 2. Appellant asserts that the proposed combination would require not only building a weight sensitive switch along with heater means into Canter’s pan but would also require eliminating Canter’s float and heater assembly. However, this argument was raised and fully addressed previously, and we decline to address it again here. *See* Appeal Br. 8–9; Decision 5.

Third, Appellant argues that we erred as a matter of fact in holding that the Examiner found the use of a heater pad would have been obvious. Req. Reh’g 4. Although the Examiner states in the Answer that Canter’s heater may be considered a heater pad under the broadest reasonable interpretation of the claim, the rejection states that the use of a heater pad is not explicitly taught by Canter and that the use of a heater pad as claimed would have been obvious based on the teachings of Canter and Hoffmann. *See* Ans. 12; Final Act. 3. Thus, we are not persuaded that we erred in stating that in “the rejection before us . . . the Examiner first acknowledged that the art does not expressly disclose a heater pad and found that the use of a heater pad would have been obvious.” Decision 5.

Fourth, Appellant argues that we erred as a matter of law in finding that the Specification does not provide a definition of a heater pad that would distinguish it from the pad-shaped heater of Canter. Req. Reh’g 5. This argument is essentially a repetition of an argument made in the Reply Brief (*see* Reply Br. 7–8), which we fully considered and found unpersuasive in adopting the Examiner’s findings. *See* Decision 5–6. We decline to address it again here.

CONCLUSION

We have carefully reviewed the original Decision in light of Appellant's request, but we find no point of law or fact that we overlooked or misapprehended in arriving at our decision. Therefore, Appellant's request for rehearing is denied.

DENIED